

Exhibit 65

***State of California ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc., et al.*, Master Civil Action No. 01-12257-PBS, Subcategory Case No. 06-11337**

Exhibit to the January 29, 2010 Declaration of Philip D. Robben in Support of Defendants' Joint Sur-Reply Brief in Opposition to Plaintiffs' Motion for Partial Summary Judgment

ATTACHMENT F

STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

GEORGE DEUKMEJIAN, Governor

DEPARTMENT OF HEALTH SERVICES

714/744 P STREET

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SEP 22 1989

Mr. Lawrence L. McDonough
Associate Regional Administrator
Division of Medicaid
Health Care Financing Administration
Region IX
75 Hawthorne Street
San Francisco, CA 94105

Dear Mr. McDonough:

As you know, the Department of Health Services, the Medicaid State Agency in California, has been working for some time on revising its Estimated Acquisition Cost (EAC) program for payment of drug products.

The Department, in preparing to determine how best to redefine its EAC program, began a number of efforts aimed at better understanding the impact of its existing EAC program on pharmacy providers and to better estimate the savings achieved in those areas.

Department staff utilized our Fiscal Intermediary, Electronic Data Systems, to develop a series of reports which enabled us to both project potential impacts of various AWP -x savings, and to understand the savings realized by existing elements of our EAC program. Those reports are available for your staff's review. Because of their complexities, and to assure your staff's understanding of these reports, I will arrange for Jim Parks, Chief of the Office of Health Systems Financing, to "walk thru" the reports with them.

The result of those reports revealed that the savings currently achieved by our Direct Company Price reimbursement policy saves an estimated 5.9 per cent discount from AWP. Further, the savings currently achieved by our Maximum Allowable Ingredient Cost reimbursement policy saves an estimated 3.8 percent discount from AWP. The two elements combined, because of the overlap, result in a savings estimated at 7.1 percent discount from AWP. Please keep in mind that this savings does not include the additional savings attributable to the Federal Acquisition Cost program. We believe that FAC savings may result in an increase of an additional one to two percent to overall savings.

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The Department then concentrated its efforts on attempting to identify what level/percent discount from AWP was appropriate. Within the last few months, the Department surveyed 165 pharmacies throughout the State to determine current practices and costs of drug acquisition. The survey questionnaire was administered personally by Department pharmacists from the Audits and Investigations Division. Based on that broad, well defined sample, it was determined that pharmacists' average acquisition cost was approximately 13.9%.

The Department then entered into discussions with representatives of statewide pharmacy provider organizations including the California Pharmacists Association representing independent community pharmacies, and the California Retail Association, representing chain pharmacies. After considerable discussion, the Department finally concluded that a discount of AWP-5%, when combined with the current savings realized (AWP-7.1%) would result in an overall discount of approximately twelve percent from AWP. We feel that this level of savings was appropriate to meet HCFA's concerns relative to EAC while insuring continued widespread pharmacy participation in the Medi-Cal program.

Given the complexities of the sophisticated computer modeling we were able to generate, I would strongly urge that your staff review the information available to them with Jim Parks. Should you have any remaining questions regarding this issue after Jim has briefed your staff, please call me at (916) 322-5824.

Sincerely,

ORIGINAL SIGNED BY
JOHN RODRIGUEZ

John Rodriguez
Deputy Director
Medical Care Services

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